

No. 10756-4Lab-71 32776.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Technological Institute of Textiles, Bhiwani:—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 10 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S TECHNOLOGICAL INSTITUTE OF TEXTILES, BHIWANI

Present —

Shri Sagar Ram Gupta for the workmen.

Shri B.R. Ghai and Shri Nathu Mal Jain, for the management.

AWARD

By order No. ID HSR/20-D/68 3509-13, dated 27th January, 1969, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred for adjudication the following dispute existing between the management of M/s Technological Institute of Textiles, Bhiwani, District Hissar and their employees, the piece rated workers:—

Whether the piece-rated workers should be entitled for one day's extra wages for 15th August, 1967 ?
If not, to what relief are they entitled ?

On receipt of the reference usual notices were given to the parties and they put in their respective written statements. According to the statement of claim filed on behalf of the concerned workmen, there has been a practice in the respondent mills that whenever a National or Festival holiday fell the workers whose weekly rest day also fell on that holiday such workers were given weekly rest on some other day of the week and were also paid average extra wages in lieu of the Festival holidays. This practice was, however, given up by the management in 1967 with the result that the workmen whose weekly rest fell on the Independence Day (15th August, 1967) were neither allowed a separate weekly rest in that week nor were they paid extra wages and the piece rated workers particularly suffered on account of this change in the old practice. It was further urged that the management had, not served any notice on the workmen as contemplated under section 9-A of the Industrial Disputes Act, 1947 before resorting to the above change which amounted to a change in the terms and conditions of the services of the workmen and as such it was illegal, unjustified and improper.

With the above allegations in brief, the workmen prayed that the management be directed to allow a separate weekly rest to all such workmen whose fixed weekly rest days fell on the Independence Day during the year 1967 and also to pay one day extra wage to all the piece-rated workmen out of such lot of workmen. It was further requested that the management be also directed to continue the said old practice of giving a separate weekly rest with extra wage to piece-rated workmen in respect of each and every National and Festival holiday after the Independence Day of 1967.

In the written statement filed on behalf of the management on 15th March, 1969, the above claim of the workmen was resisted. Reference was made to certain earlier awards between the parties and it was further contended that since June, 1966, National and Festival holidays were being given to the workers in accordance with the Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Act, 1965. It was further contended that some of the demands made in the statement of claim filed in the court were in excess of the demands covered by the terms of reference. The workmen put in their rejoinder controverting the above allegations of the management. My learned predecessor framed the following 4 issues in the case.

1. Whether there was a practice in the respondent Mills that whenever a national or festival holiday fell on a weekly rest day the workers were given weekly rest on some other day of the week and also paid average wages extra in lieu of the festival holiday and this practice has become a terms and conditions of service of the workmen ?
2. Whether the present dispute is covered by the award of the Industrial Tribunal, Punjab, and the Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965 and, if so, what is its effect ?
3. Whether a part of the relief claimed by the union is outside the terms of reference and, if so, to what extent ?

4. Whether the piece-rated workers should be entitled to one day's extra wages for 15th August, 1967 and if not to what relief are they entitled?

The parties have led some evidence on the above issues. The workmen have examined two witnesses, namely, Shri Sawan Ram W.W.1 and Shri Sagar Ram Gupta, General Secretary, T.I.T. Karamchari Sangh, Bhiwani, W.W.2. On behalf of the management Shri N.M. Jain, Factory Manager, has made his statement as M.W.1 and he has referred to certain documents including a memorandum of settlement, dated 12th June, 1964, Exhibit M.W.1/1, demand notice, dated 1st May, 1964, Exhibit M.W.1/2, Letter, dated 10th February, 1966 terminating an earlier award, dated 21st May, 1963, Exhibit M.W.1/3, Notice, dated 30th April, 1966, regarding change, Exhibit M.W.1/4 demand notice dated 12th September, 1967, Exhibit M.W.1/5, Government order, dated 27th January, 1968 Exhibit M.W.1/6, demand notice dated 28th September, 1966, Exhibit M.W.1/7.

During the course of arguments of the parties it was observed that the necessary particular of the piece-rated workers for whom extra wages for National holiday of 15th August, 1967, had been claimed were not on record. The management undertook to furnish the statements showing the number and the names of the piece-rated workers in the factory during the relevant period, their respective rest holidays as also the names of the workers to whom the wages for 15th August, 1967, were alleged to have been paid. These statements were filed by the management and are Annexures A, B, and C on the records. The authenticity of the statements has not been questioned on behalf of the workmen inspite of the notice.

Arguments of the parties have been further heard and I have given a careful consideration to the material on record and the contentions raised on both sides.

As would be clear from the terms of reference stated above the short question that arises for determination in the case is whether the piece-rated workers are entitled to one day's extra wages for 15th August, 1967 and if not, to what relief are they entitled? The workmen had raised the other demands in the demand notice, dated 2th January, 1968, leading to the present reference which were reiterated in the statement of claim filed in the Court that the workmen were fixed weekly rest day fell on the Independence Day during the year 1967 were entitled to a separate weekly rest and the old practice of giving a separate weekly rest and paying extra wages to piece-rated workmen in respect of each and every National and Festival holidays after the Independence day of 1967 should be continued. The Government as rightly contended on behalf of the management has not referred for adjudication the above demands. The workmen had originally based their claim on previous practice. According to the stand taken on behalf of the management since June, 1966, National and Festival holidays were being given to the workers in accordance with the Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, 1965. The learned representative of the workmen has conceded that the parties are governed by the provisions of the aforesaid Act and the award in respect of the dispute referred for adjudication has to be made in accordance with the provisions of the said Act.

In view of the above, issue No. 1 has become redundant and is decided against the workmen as also issue No. 3 as the demand covered by issue No. 1 is outside the terms of the present reference.

Issues Nos. 2 and 4 are more or less interconnected and may safely be taken up together. The relevant provisions of the Punjab Industrial Establishments (National and Festival Holidays and Casual and Sick Leave) Act, No. 14 of 1965 are quite clear on the point under issue. According to this Act, every worker shall in each calendar year, be allowed in such manner and on such conditions as may be prescribed, 3 National holidays of one whole day each on 26th January, 15th August, and 2nd October and notwithstanding any contract to the contrary, every worker shall for each of the National and Festival holidays be paid by the employer wages at a rate equivalent to his average daily wage. These provisions are of a mandatory nature and have to be followed strictly. The requirements of the law in this behalf cannot be circumvented by the management by treating the above National holidays as the weekly rest days of the concerned workmen. The learned representative of the management in the instant case has not been able to show me anything to the contrary.

In view of the above I am quite clear in my mind that all the piece-rated workers were entitled to one days extra wages for 15th of August, 1967, which was a National holiday. The issue is accordingly decided in favour of the workmen and against the management. At this stage it has been urged on behalf of the management that there is no evidence on the record to work out the wages to which the concerned workmen may be entitled. In view of the statements filed by the management which have been already referred to as annexures A, B and C, no further evidence is called for in the present proceedings. The management has given the list of the piece-rated workers on its rolls on the relevant day, i.e. the 15th of August, 1967, the names of the workers who have already been paid their wages and also the names of the piece-rated workers who have not been paid their wages for the said day. The workmen have not questioned the correctness of the above statements which may serve as a guide for calculating the wages of the piece-rated workers who have not yet been paid. Moreover, there is another form for the computation of such benefits in terms of money and the workmen may take resort to the provisions of section 33(C)(2) of the Industrial Disputes Act, 1947, in this behalf, if considered necessary.

The reference in the result is answered against the management and it is held that the piece-rated workers are entitled to one day's extra wages for 15th August, 1967. In the circumstances there shall be no order as to costs.

O. P. SHARMA,

Dated 23rd September, 1971.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1052, dated 23rd September, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated 23rd September, 1971.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 10732-4Lab-71/32773.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Panipat Co-operative Sugar Mills, Panipat:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Application No. 3 of 1971, under section 33-A of the Industrial Disputes Act, 1947

between

SHRI JAI CHAND, WORKMAN AND THE MANAGEMENT OF M/S PANIPAT
CO-OPERATIVE SUGAR MILLS, PANIPAT

Present—

Shri Madhu Sudan Saran Cowshish with Shri Jai Chand concerned workman.

Shri S. L. Gupta for the management.

AWARD

This is an application under section 33A of the Industrial Disputes Act, 1947. Shri Jai Chand applicant was in the service of M/s Panipat Co-operative Sugar Mills, Panipat. He was brought under retrenchment with effect from 7th August, 1970. Feeling aggrieved he has raised a regular dispute under section 10(1) of the Act which is pending before this Tribunal. He brought the present application on 7th January, 1971 with the allegations that when he was away to his village along with his family, the management had broken open the lock of Room No. 39(b) in the Sugar Mills Colony, Panipat which had been allotted to him. It was contended that the above action of the management amounted to contravention of the provisions of section 33 of the Act and as such it was illegal, unjustified, unwarranted and capricious and he was entitled to the restoration of the possession of the aforesaid accommodation.

Notice of the application was given to the management. The above contentions of Shri Jai Chand were controverted in the written statement filed on 3rd August, 1971. The following issue was framed.

Whether there has been a violation of the provisions of section 33 of the Industrial Disputes Act, 1947? If so, with what effect?

Shri Jai Chand concerned workman has led no evidence in support of the above issue and his authorised representative Shri Madhu Sudan Saran Cowshish has made the statement that the relief asked for has since been granted; the present application is not pressed.

In view of the above, the application shall stand dismissed as withdrawn being infructuous. In the circumstances, there shall be no order as to cost.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 24th September, 1971.

No. 1054, dated 24th September, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 24th September, 1971

O. P. SHARMA.
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 6th October, 1971

No. 10731-4 Lab-71/32687 —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Prestolite of India Ltd., Faridabad :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 30 of 1970

between

SHRI CHATTAR LAL WORKMAN AND THE MANAGEMENT OF M/S PRESTOLITE OF
INDIA LTD., FARIDABAD

Present.—

Shri R.N. Roy, for the workman.

Shri S.L. Gupta, for the management.

AWARD

The facts leading to this reference under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, may shortly be stated as under :—

Shri Chatter Lal concerned workman had been working as Press Operator with M/s. Prestolite of India Ltd., Faridabad since 19th March, 1967. The management terminated his services with effect from 24th September, 1969 on the charge of mis-conduct having refused to obey the orders of his superior to work on a particular machine on 6th August, 1969 and allegedly after holding a fair domestic enquiry which was disputed by Shri Chatter Lal. This gave rise to an industrial dispute and the Governor of Haryana has been pleased to refer the same for adjudication to this Tribunal, —vide order No. ID/FD/107/4895-99, dated 20th August, 1970 with the following terms of reference.

Whether the termination of services of Shri Chatter Lal was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were given to the parties and they were called upon to put in their respective statements. In the statement of claim filed on 1st April, 1970, it was urged on behalf of Shri Chatter Lal that he had been discharging his duties satisfactorily ever since he was appointed Press Operator in the factory on 19th March, 1967 and the charge-sheet dated 6th August, 1969 handed over to him was false and fabricated and he had not been given any adequate opportunity to defend himself in the so called domestic enquiry. It was further urged that he had been victimised due to his Trade Union activities.

In the written statement filed on 2nd May, 1970, the above allegations of Shri Chatter Lal was controverted. It was averred that on 6th August, 1969 he had refused to obey the orders of his Foreman to work on press No. 160. It was further stated that Shri S.L. Gupta had held a fair and impartial enquiry into the said charge against Shri Chatter Lal and after consideration of his report finding him guilty of the charge, the management had rightly terminated his services.

On the pleadings of the parties, the only issue that arose for determination in the case was as per the terms of reference stated above.

The management filed the enquiry proceedings and examined Shri S.L. Gupta, the Enquiry Officer as M.W. 1. Shri Chatter Lal made his own statement as W.W. 1. After considering the evidence produced on both sides the said enquiry was set aside by order, dated 20th May, 1971 and the parties were directed to produce evidence on merits.

The management has examined 4 witnesses, namely, Shri Avtar Singh Foreman M.W. 2, Shri G.S. Sethi Production Engineer M.W. 3, Shri Surgrive Singh Worker M.W. 4 and Shri Ramji Lal another worker in the factory as M.W. 5. Shri Chatter Lal has not led any further evidence.

Arguments of the parties have been heard and I have given a very careful consideration to the material on record. As already observed, the case of the management to justify the impugned order of the termination of the services of Shri Chatter Lal concerned workman is that on a particular day, i.e., on 6th August, 1969 he had disobeyed the orders of the Foreman to work on press No. 160. This was denied by Shri Chatter Lal. There is, however, sufficient and reliable evidence to support the said charge against Shri Chatter Lal. Shri Avtar Singh, Foreman has come into the witness box and made a statement on oath that on the relevant day Shri Chatter Lal had refused to obey his above orders to work on press No. 160 and that he had brought this matter to the notice of Shri G.S. Sethi, Production Engineer who had also advised Shri Chatter Lal to work on press No. 160 as directed but without any effect. Shri G.S. Sethi Production Engineer coming into the witness box as M.W. 3 has fully supported Shri Avtar Singh. The above version of the management finds support in the testimony of M.W. 4 Shri Surgrive Singh also.

There is no reasonable rebuttal of the above evidence produced by the management. Shri Chatter Lal has led no evidence to corroborate his solitary statement and the defence taken by him against the order of the termination of the services by the management is rather self contradictory. According to the statement made by him in the Court, he had worked on press No. 160 on 5th and 6th August, 1969 as usual and no orders had been given to him by the Foreman on that day. Before the Enquiry Officer, however, he had taken the stand that on the relevant day he had started his work on Press No. 160 but Shri Avtar Singh Foreman ordered him to work on press No. 165 and he had obeyed his orders. There is no evidence on the record to show that he had worked on press No. 165 either on that day nor has that been his case in the present proceedings at any stage.

So, taking into consideration the facts of the case as discussed above, I find the aforesaid charge levelled by the management against Shri Chatter Lal concerned workman to be well founded. From the testimony of Shri Avtar Singh M.W. 2 read with the report dated 21st September, 1968, M.W. 2/1 and report dated 14th December, 1968 Exhibit M.W. 2/2 and the statement of Shri Ramji Lal M.W. 5, it would appear that the conduct of Shri Chatter Lal had not been satisfactory in the past as well and he had been held responsible for breaking the dies on more than one occasions. In the circumstances the management was justified in terminating his services. The issue is accordingly decided and it is held that the termination of the services of Shri Chatter Lal was justified and in order and as such he is not entitled to any relief. The award is made accordingly with no order as to costs.

The 24th September, 1971.

O.P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1053, dated 24th September, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 24th September, 1971

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 5th October, 1971.

No. 10745-4Lab-71 32768.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/S Gedore Tools (India) (P) Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK.

Reference No. 2 of 1971

Between

The workmen Shri Gopi Chand C/o Shri Hari Narain Gora, 1-A/90 N.I.T. Faridabad and the Management of M/s Gedore Tools (India) (P) Ltd., Faridabad.

Present :—Memo for the workman.

Shri R.C. Sharma, for the management.

AWARD

The management of M/s. Gedore Tools (India) (P) Ltd., Faridabad terminated the services of their Time Keeper Shri Gopi Chand and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication, — *vide* Government Gazette Notification No. ID/FD/54-B-70/dated 23rd December, 1970:

“Whether the termination of services of Shri Gopi Chand Chawla was justified and in order? If not, to what relief is he entitled?”

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The case of the management is that the workman Shri Gopi Chand Chawla was appointed on probation as a Time Keeper on 17th November, 1969 but his work was not upto the mark and his period of probation was extended by three months but still his work was not satisfactory and so his services were terminated on 21st August, 1970.

The allegation of the workman is that his services were terminated because he requested for a letter of confirmation but this request was resented by the management and his services were terminated. The only issue which arose from the pleadings of the parties was precisely the same as in the order of reference. So the parties were directed to produce evidence in support of their respective contentions.

The workman in his evidence admits that he was appointed on probation for a period of six months on 17th November, 1969 and his period of probation was extended. Shri Chaturvedi, Executive Officer of the respondent company has appeared in his evidence on behalf of the management and has proved two assessment forms Marked Exhibit M.W., 1-1 and M.W., 1-2 relating to the performance of the work of the applicant. Both these assessment form shows that the work of the applicant was below normal. The period of probation of the applicant expired on 17th August, 1970 and his services were terminated by letter dated 21st July, 1970.

The workman in his evidence simply says that the management was annoyed with him simply because he requested for a letter of confirmation after the expiry of his period of probation of 6 months. He says that Shri Chaturvedi promised to confirm him but instead his period of probation was extended then his services were terminated. It is not shown that the action of the management in terminating the service of the applicant was in any manner malafide. On the other hand it is established that the services of the applicant were dispensed with on account of his unsatisfactory performance during the period of probation. I, therefore, hold that the termination of the services of the workman was justified and in order and he is not entitled to any relief. I give my award accordingly. No order as to costs.

P.N. THUKRAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 23rd September, 1971

No. 1870 Dated, Rohtak, the 23rd September, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

B. L. AHUJA,

Commissioner for Labour and Employment and Secy.

LABOUR AND EMPLOYMENT DEPARTMENT

The 29th September, 1971

No. 10354-1Lab-71/32106.—Miss Shanta Gandhi, District Employment Officer, District Employment Exchange, Yamunanagar, relinquished the charge of her office with effect from 16th September, 1971 (A.N.) consequent upon the acceptance of her resignation.

B. L. AHUJA,

Commissioner and Secretary to Government, Haryana.